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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Trustees of the Operating Engineers Pension Trust, et al.,

Plaintiffs,

v.

Peek Construction Company, Inc., et al.,

Defendants

Case No.: 2:12-cv-333-JAD-CWH

**Order Dismissing Remaining Claims
and Closing Case**

Plaintiffs' claims against Michael Peek—stayed due to bankruptcy—and against his company Peek Construction Company, Inc., fka El Camino Construction Company are all that remain of this ERISA action. Plaintiffs have filed a “notice of voluntary dismissal” under FRCP 41(a)(1)(A) of all remaining claims, reciting that Mr. Peek received a discharge in his Chapter 7 bankruptcy case.¹ Because Mr. Peek and his company filed an answer in this case,² plaintiffs may not avail themselves of Rule 41(a)(1)(A) dismissal by filing just a notice; a court order is required. In the interest of justice, I instead treat the plaintiffs' notice³ as a motion to dismiss under FRCP 41(a)(2) and find good cause to grant the motion and dismiss all remaining claims in this case.

Accordingly, with good cause appearing and no reason for delay, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the request to dismiss this case [ECF 82] is **GRANTED; all remaining claims in this action are dismissed. The Clerk of Court is directed to close this case.**

DATED: November 16, 2015



Jennifer A. Dorsey
United States District Judge

¹ ECF 82.

² ECF 17.

³ ECF 82.